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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,777	10/04/2006	Michael Matveishen	38785	7892
116 7590 02/26/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER TSO, EDWARD H				
ART UNIT 2838		PAPER NUMBER		
MAIL DATE 02/26/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,777

Applicant(s)

MATVEISHEN, MICHAEL

Examiner

Edward Tso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 24, 27-29, 36-47, 57, 59-61, 64-76, 86, 90 and 93-95 is/are rejected.
- 7) ☒ Claim(s) 13-23, 25, 26, 30-35, 48-56, 58, 62, 63, 77-85, 87, 91 and 92 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/19/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Information Disclosure Statement

The IDS filed 9/19/05 has been considered and placed of record. An initialed copy is attached herewith.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9, 28, 29, 36-38, 41-44, 60, 65-67, 70-73 and 89 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 02/081255. The reference discloses an apparatus for managing energy supplied having, *inter alia*, energy accumulators 20, 30, a micro-p controller 60 for placing the energy accumulation in communication with the

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load and the energy supply. The accumulators are placed temporarily in the load or the energy supply dependent on its energy level. Moreover, the energy can be transferred between the load and itself or the other accumulator and itself.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 10, 11, 12, 24, 27, 39, 40, 45-47, 57, 59, 61, 64, 68, 69, 74-76, 86, 88, 90 and 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/081255.

The reference does not disclose the accumulators being capacitors. It is common knowledge in the art that batteries and capacitors are both storage devices and are capable of storing any charge. It would have been obvious to one having ordinary skill in the art to have substituted one with the other since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

The reference does not differentiate between electronic switching and mechanical switching. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the switching either electronic or

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mechanical, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The reference does not disclose a back-flow preventor. It is a common knowledge in the art to have provided a diode to prevent energy from flowing backward in order to prevent damage to the entire system. It would have been obvious to one having ordinary skill in the art to wire a diode in the path to prevent damage from reverse current.

The reference does not explicitly disclose boosting the energy before transferring to another device. It would have been obvious to boost the energy in order to provide the output with the desired level.

Regarding the code used to cause the method to be carried out, it would have been obvious to have programmed the controller with the laid-out method steps since almost everything is now being computerized.

Allowable Subject Matter

Claims 13-23, 25, 26, 30-35, 48-56, 58, 62, 63, 77-85, 87, 91 and 92 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on every Tuesday, Thursday and Saturday.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (571) 272-2800, Monday-Friday, 8:30am to 5:00pm, EST.

By: /Edward H Tso/
EDWARD H TSO
Primary Examiner
(571) 272-2087